UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW MEXICO

IN RE: Nicholas Raymond Innerbichler — Case No. 09-12437-m11

Debtor,

MARINA DISTRICT DEVELOPMENT COMPANY, LLC, — Adversary Proceeding No.

Plaintiff,

vs.

NICHOLAS RAYMOND INNERBICHLER,

Defendant.

COMPLAINT UNDER SECTION 523 (a)(2) OBJECTING TO DISCHARGE

COMES NOW the Plaintiff, by and through its attorney, Stephen D. Bass, and for its complaint against the Defendant, Nicholas Raymond Innerbichler, would state:

1. This is a core proceeding over which this Court has jurisdiction under Title 28 U.S.C. Section 157 (a), (b) and (c) and Section 1334, and 11 U.S.C. Section 523.

2. Defendant, Nicholas Innerbichler, is the debtor in this Chapter 11 case.

3. Plaintiff is a New Jersey corporation licensed pursuant to the provisions of the Casino Control Act (N.J.S.A. 5:12-101, et seq.) To conduct casino gambling in New Jersey, is a creditor of the Defendant.

4. Defendant Nicholas Innerbichler applied for and was granted credit in the amount of $484,000.00 pursuant to N.J.S.A. 5:12-101, and executed several counter checks drawn on Bank of America. Attached hereto as Exhibit "A" are copies of all Defendant's checks.

5. Funds were advanced to the Defendant on Defendant's representation that said amounts were on deposit in his name free from claims and subject to the aforesaid checks.

6. The checks were not honored by Bank of America because the Defendant's account had been closed.

7. Plaintiff filed a civil lawsuit in the Superior Court of New Jersey, Law Division of Atlantic County, under Docket number ATL-L-4450-06 demanding judgment for $434,000.00; a judgment was entered for $457,697.48 in favor of the Plaintiff and against the Defendant on 9/29/06. Attached hereto as Exhibit "B" is a copy of said judgment.

8. That Plaintiff was able to recover some of its monies from the Defendant from the sale of foreclosed properties and Defendant has been granted a partial satisfaction of the judgment entered against him.

9. After giving the Defendant all just credits due him, Defendant Nicholas Innerbichler is indebted to the Plaintiff in the sum of $325,185.11 plus interest on debts for obtaining money for false pretense, false representation and actual fraud as follows:

a. Defendant represented to Plaintiff that the checks attached hereto would be honored by Bank of America, that the checks were free from claim and that there was adequate funds in the bank to pay said checks, which was false, and on which checks there remains a balance to be paid;

b. After tendering said checks to Plaintiff, the checks were dishonored by Bank of America because the Defendant stopped payment of the checks;

c. This action qualifies this debt to be non-dischargeable pursuant to 11 U.S.C. 523 (a)(2)(A) and (B) because the Defendant issued the checks under false pretenses, false representation and actual fraud because the act of writing and issuing the checks upon which the Plaintiff reasonably relied was a deliberate deception on the part of Defendant.

10. The Defendant made false representations of funds on deposit and on an existing bank account balance status by execution and presentation of checks to the Plaintiff which constitutes a false financial statement in writing.

WHEREFORE, Plaintiff prays the Court:

A. Determine that the civil judgment in favor of the Plaintiff and against the Defendant in the amount of $325,185.11 is non dischargeable.

B. That Plaintiff have such other relief as is just, including reasonable attorney's fees and costs.

Steven E. Sessions *for Steve Bass*
122 10th St. NW
Albuquerque, NM 87102-2901
(505) 248-1111